

MINUTES
NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION ACT (NAGPRA)
REVIEW COMMITTEE
SEVENTEENTH MEETING: MAY 3-5, 1999
SILVER SPRING, MARYLAND

The seventeenth meeting of the Native American Graves Protection and Repatriation Review Committee was called to order by Ms. Tessie Naranjo at 8:30 a.m., Monday, May 3rd, 1999, at the Town Center Hotel, Silver Spring, Maryland. The following Review Committee members, National Park Service (NPS) staff, and others were in attendance:

Members of the Review Committee:

Ms. Tessie Naranjo, Chair
Mr. James Bradley
Mr. Lawrence Hart
Ms. Vera Metcalf
Mr. Armand Minthorn
Mr. John O'Shea
Mr. Martin E. Sullivan

National Park Service staff present:

Ms. Kate Stevenson, Associate Director for Cultural Resources, Stewardship and Partnership Programs, Washington, DC
Mr. Francis P. McManamon, Departmental Consulting Archaeologist, Washington, DC
Mr. C. Timothy McKeown, NAGPRA Program Leader, Washington, DC
Mr. Hugh G. "Sam" Ball, NAGPRA Staff, Washington, DC
Ms. Jean Kelley, NAGPRA Consultant, Washington, DC
Ms. Laura Mahoney, NAGPRA Consultant, Washington, DC
Mr. Jason Roberts, NAGPRA Consultant, Washington, DC
Ms. Carla Mattix, Solicitor's Office, Department of the Interior (DOI), Washington, DC

The following were in attendance during some or all of the proceedings:

Ms. Nicole Alto, Manzanita, Kumeyaay Cultural Repatriation Committee (KCRC), Boulevard, California
Mr. Roger Anyon, Smithsonian Institution, Tucson, Arizona
Ms. Barbara Ball, Reston, Virginia
Mr. Steve Banegas, Kumeyaay Cultural Repatriation Committee, Lakeside, California
Mr. Lee Banicki, US Department of Energy, Washington, DC
Ms. Jeannie Barbour, Chickasaw, Ada, Oklahoma
Ms. Liz Bauer, Mesa Verde National Park, Mesa Verde, Colorado
Ms. Shirley Bear, Abenaki, Manchester, New Hampshire
Mr. Richard M. Begay, Navajo Nation, Window Rock, Arizona
Mr. Steven Begay, Navajo Nation, Gallup, New Mexico
Mr. Stan Berryman, Marine Corps, Camp Pendleton, California
Mr. Joe Big Medicine, Southern Cheyenne of Oklahoma, Langdale, Oklahoma
Mr. Bill Billeck, National Museum of Natural History, Smithsonian Institution, Washington, DC
Ms. Elizabeth Blackowl, Pawnee Nation of Oklahoma, Pawnee, Oklahoma
Mr. David Blick, US Army, APG, Maryland
Mr. Eric Blinman, Office of Archaeological Studies, Museum of New Mexico, Santa Fe, New Mexico
Mr. Rick Bouchard, Cultural Resources Monitor, Pechanga Indian Reservation, Temecula, California
Mr. Bruce Bourque, Maine State Museum, Augusta, Maine
Mr. Eldred Bowekaty, Pueblo of Zuni, New Mexico
Ms. Sarah Bridges, Washington, DC

Ms. Stephanie Briscoe, Pechanga Band, Menifee, California
 Mr. John Brown, Narragansett Indian Tribe, Wyoming, Rhode Island
 Ms. Betsy Bruemmer, National Museum of Natural History, Smithsonian, Washington, DC
 Mr. David M. Brugge, Albuquerque, New Mexico
 Ms. Laurie Burgess, Smithsonian Institution, Mt. Rainier, Maryland
 Ms. Wendy Bustard, Chaco Canyon National Historical Park, National Park Service, Nageezi, New Mexico
 Ms. Veletta Canouts, National Park Service, Washington, DC
 Ms. Patricia "Trish" Capone, Peabody Museum, Harvard University, Cambridge, Massachusetts
 Mr. James Charles, Navajo, National Park Service, Tonaka, Arizona
 Mr. Ron Chiago, Salt River Pima-Maricopa Indian Community, Scottsdale, Arizona
 Mr. Steve Chestnut, Fallon Paiute-Shoshone Tribal Attorney, Seattle, Washington
 Mr. Terry Cole, Choctaw Nation, Durant, Oklahoma
 Ms. Kirsten Collins, Navy, San Diego, California
 Mr. Roger Colten, Peabody Museum, New Haven, Connecticut
 Ms. Linda Cordell, University of Colorado, Boulder, Colorado
 Mr. Jerry Cordova, Taos/Tesuque Pueblo, Washington, DC
 Ms. Cherrie A. Corey, Independent Consultant Repatriation and Cultural Preservation, Concord, Maryland
 Ms. Nancy Coulam, Bureau of Reclamation, Salt Lake City, Utah
 Ms. Barbara Crandell, Native American Alliance of Ohio, Thornville, Ohio
 Ms. Debra Deacon, Alaska Native, Jackson Heights, New York
 Mr. Alan Downer, Navajo Nation, Window Rock, Arizona
 Ms. Rochanne Downs, Fallon Paiute-Shoshone Tribe, Fallon, Nevada
 Mr. Leroy Elliot, Manzanita Band of Kumeyaay Indians, Boulevard, CA
 Mr. Jim Enote, Pueblo of Zuni, Zuni, New Mexico
 Ms. Beth Eubanks, National Museum of Natural History, Smithsonian Institution, Washington, DC
 Ms. Linda R. Fabbri, Office of the Chancellor, University of California, Berkeley, California
 Mr. Arnold Farley, Department of the Interior, Office of Inspector General, Lakewood, Colorado
 Ms. Clare Farrell, Midwest SOARRING, Naperville, Illinois
 Ms. Gillian Flynn, National Museum of Natural History, Smithsonian Institution, Washington, DC
 Ms. Dabney Ford, Chaco Culture National Historic Park, National Park Service, Nageezi, New Mexico
 Mr. Paul Frechette, Abenaki, Manchester, New Hampshire
 Mr. Paul Friesema, Northwestern University, Evanston, Illinois
 Ms. Reba Fuller, Central Sierra Me-Wuk Committee, Tuolumne, California
 Ms. Myra Giesen, Bureau of Reclamation, Lawrence, Kansas
 Mr. John Andrew Gomez, Jr., Pechanga Band of Luiseno Mission Indians, Temecula, California
 Ms. Martha Graham, American Museum of Natural History, New York, New York
 Ms. Priscilla C. Grew, University of Nebraska, Lincoln, Nebraska
 Ms. Ellen Gruenbaum, California State University, Fresno, California
 Mr. Louie Guassac, Kumeyaay Cultural Repatriation Committee, Santa Ysabel, California
 Ms. Elaine Guthrie, American Museum of Natural History, New York, New York
 Ms. Lesa K. Hagel, Lesa K. Hagel Word Processing, Rapid City, South Dakota
 Mr. Clint Halftown, Cayuga Nation, Versailles, New York
 Mr. Clay Hamilton, Hopi/Tewa, Hotevilla, Arizona
 Mr. Michael Haney, Seminole Nation, Wewoka, Oklahoma
 Ms. Valerie Hauser, Advisory Council on Historic Preservation, Washington, DC
 Ms. Cleone Hawkinson, Friends of America's Past, Portland, Oregon
 Ms. Roberta Hayworth, US Army Corps of Engineers, St. Louis, Missouri
 Ms. Karen V. Heege, Takoma Park, Maryland
 Ms. Michelle Heller, Advisory Council on Historic Preservation, Washington, DC
 Ms. Susan Hirano, University of California at Berkeley, Albany, California
 Mr. James Horton, Legislative Strategies, Alexandria, Virginia
 Ms. Danielle Huey, Southwest Division Naval Facilities Engineering Command, San Diego, California

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Mr. Gary W. Hume, New Hampshire Division of Historical Resources, Concord, New Hampshire
 Ms. Barbara Isaac, Peabody Museum, Harvard University, Cambridge, Massachusetts
 Mr. G. Peter Jemison, Seneca Nation, Victor, New York
 Mr. Joseph T. Joaquin, Tohono O'odham Nation, Sells, Arizona
 Ms. Cheryl Johnston, Ohio Historical Society, Columbus, Ohio
 Ms. Tamara Johnston, Bryn Mawr College, Bryn Mawr, Pennsylvania
 Mr. Wayne Jones, Seneca Nation of Indians, Gowanda, New York
 Mr. Thomas W. Killion, National Museum of Natural History, Smithsonian Institution, Washington, DC
 Ms. Carolyn Kinsey, US Army Corps of Engineers, St. Louis, Missouri
 Mr. Keith Kintigh, Society for American Archaeology, Arizona State University, Tempe, Arizona
 Mr. Rey Kitchkumme, Prairie Band Potawatomi Nation, Mayetta, Kansas
 Ms. Melinda Knapp, Ohio Historical Society, Columbus, Ohio
 Mr. Wilton Kooyahoema, Village of Hotvela, Hotevilla, Arizona
 Ms. D. Bambi Kraus, NATHPO, Washington, DC
 Mr. Carl Kron, Midwest SOARRING, Naperville, Illinois
 Mr. Leigh J. Kuwanwisiwma, Hopi Cultural Preservation Office, Kykotsmovi, Arizona
 Mr. Quon Y. Kwan, Department of Energy Contractor, Columbia, Maryland
 Mr. Ronald Largo, Navajo Nation, Mariano Lake, New Mexico
 Ms. Shanon LeRoy, Cayuga Nation, Versailles, New York
 Ms. Millicent Little, Spirit Lake Tribe, Ft. Totten, North Dakota
 Mr. Ronald S. Little Owl, Three Affiliated Tribes, ND Intertribal Reinterment Committee, Halliday, North Dakota
 Ms. Gloria Lomahaftewa, Hopi/Choctaw, Heard Museum, Phoenix, Arizona
 Ms. Marianne Long, Iowa Tribe, Perkins, Oklahoma
 Mr. Edward M. Luby, Phoebe Hearst Museum, University of California, Berkeley, California
 Mr. Anthony Otto Lucio, Pueblo of Zuni, Zuni, New Mexico
 Ms. Mary A. Ludwig, Department of Anthropology, California State University, Fresno, California
 Ms. Stephanie Makseyn-Kelley, National Museum of Natural History, Smithsonian Institution, Washington, DC
 Ms. Desiree Martinez, Harvard University, Gabrielino (Tongva) Nation, Cambridge, Massachusetts
 Mr. Benjamin Masiel, Pechanga Cultural Resources, Temecula, California
 Mr. Manuel Masiel, Pechanga Culture Resources, Hemet, California
 Ms. Jean McCoard, Native American Alliance of Ohio, Lucasville, Ohio
 Mr. Alfred McDonnell, Arnold and Porter, Counsel to the Hopi Tribe, Denver, Colorado
 Ms. Stephanie Mekis, Arlington, Virginia
 Ms. Jeanette Miller, Seneca Nation, Victor, New York
 Ms. Laura Miranda, Pechanga Band CILS, Escondido, California
 Ms. Regina Miranda, Cultural Resources, Pechanga Native Senior Monitor, Temecula, California
 Ms. Paula Molloy, National Museum of Natural History, Smithsonian Institution, Washington, DC
 Mr. John Moody, Abenaki, Sharon, Vermont
 Mr. Michael J. Moratto, California State University, Fresno, California
 Mr. Terry Morgart, Hopi, Kykotsmovi, Arizona
 Mr. Alvin Moyle, Fallon Paiute-Shoshone Tribe, Fallon, Nevada
 Ms. Karen Mudar, National Museum of Natural History, Smithsonian Institution, Washington, DC
 Ms. Mary Bear Muga, Pechanga Tribe, Temecula, California
 Ms. Nell Murphy, American Museum of Natural History, New York, New York
 Mr. Ed Natay, National Park Service, Santa Fe, New Mexico
 Ms. Rachel G. Nelson, Harvard University, Navajo Nation, Cambridge, Massachusetts
 Ms. Theresa Nichols, National Park Service, Aztec, New Mexico
 Ms. Marilyn Nickels, Bureau of Land Management, Washington, DC
 Mr. Robert Keith O'Neill, American Museum of Natural History, New York, New York
 Ms. Bernice Paipa, Kumeyaay Cultural Repatriation Committee, Santa Ysabel, California

Mr. Matt Palus, UMDCP, Department of the Interior, Maryland
 Mr. Otis Parrish, Kashaya Pomo, Phoebe Hearst Museum, University of California, Berkeley, California
 Mr. James Pepper Henry, National Museum of the American Indian, Kaw/Muskogee, Washington, DC
 Ms. Ramona Peters, Wampanoag Confederation, Mashpee, Massachusetts
 Mr. Harlan Pinto, Kumeyaay Cultural Repatriation Committee, Lakeside, California
 Ms. Janice Pinto, Kumeyaay Cultural Repatriation Committee, Lakeside, California
 Mr. Jesse Pinto, Sr., Kumeyaay Cultural Repatriation Committee, Jamul, California
 Mr. George Prietto, Sycuan-Kumeyaay Mission, El Cajon, California
 Ms. Dorene Elizabeth Red Cloud, Oglala Lakota, Los Angeles, California
 Mr. Tony Reyes, Pechanga, Temecula, California
 Mr. James Riding In, School of Justice Studies, Arizona State University, Tempe, Arizona
 Mr. Ronnie Rivera, Pechanga, Temecula, California
 Ms. Alexa Roberts, National Park Service, Santa Fe, New Mexico
 Ms. Delores Roberts, North Fork Rancheria, North Fork, California
 Ms. Donna Roberts, Abenaki, Sharon, Vermont
 Ms. Virginia Salazar, National Park Service, Santa Fe, New Mexico
 Ms. Donna Sandoval, Cheyenne and Arapaho Tribes of Oklahoma, El Reno, Oklahoma
 Mr. Michael Schillai, Chaco Culture Historical Park, National Park Service, Albany, New Mexico
 Ms. Susan Secakuku, National Museum of American Indian, Hopi, Smithsonian Institution, Washington, DC
 Mr. Ron Seth, Choctaw Nation, Durant, Oklahoma
 Mr. Emry Shillingbreu, UMDCP, Department of the Interior, Maryland
 Mr. Dan Simplicio, Pueblo of Zuni, Zuni, New Mexico
 Mr. David Glenn Smith, University of California, Department of Anthropology, Davis, California
 Ms. Laura Smith, University of Pennsylvania Museum, Philadelphia, Pennsylvania
 Mr. Terry Snowball, National Museum of American Indian, Potawatomi/Ho-Chunk, Smithsonian Institution, Washington, DC
 Mr. Stuart Speake, National Museum of Natural History, Smithsonian Institution, Washington, DC
 Mr. David Stewart-Smith, New Hampshire Intertribal, Webster, New Hampshire
 Mr. Brian Stockes, National Congress of the American Indian, Washington, DC
 Mr. Tim Sullivan, National Museum of the American Indian, Bronx, New York
 Ms. Dorothy Tavui, San Pasqual Band of Mission Indians, Valley Center, California
 Mr. Dalton Taylor, Hopi Tribe, Second Mesa, Arizona
 Ms. Sandra M. Wachter, Aberdeen Proving Ground, Darlington, Maryland
 Mr. Jesse Walker, Frederick, Maryland
 Ms. Yvette Weeks, Wisconsin Intertribal Repatriation Committee, Oneida, Wisconsin
 Mr. Charles T. Wilson, Chaco Canyon National Historical Park, National Park Service, Nageezi, New Mexico
 Mr. Ron Wilson, Department of the Interior, Washington, DC
 Ms. Danette D. Woodmanski, Oneida, Wisconsin
 Ms. Rosita Worl, Sealaska, Juneau, Alaska
 Ms. Katie Wright, National Museum of Natural History, Smithsonian Institution, Washington, DC
 Ms. Pemina Yellow Bird, Three Affiliated Tribes, Lawrence, Kansas
 Ms. Gayle Yiotis, National Museum of Natural History, Smithsonian Institution, Washington, DC
 Ms. Benita Zamora, Monitor, Temecula, California

Ms. Naranjo welcomed the Review Committee members and members of the audience. The Review Committee members introduced themselves. Mr. Jerry Cordova of the Pueblo of Taos gave the opening invocation.

Welcome

Ms. Kate Stevenson, Associate Director of the NPS for Cultural Resources, Stewardship and Partnership Programs, welcomed the Review Committee members and thanked them for their efforts concerning the implementation of

NAGPRA. She stated the NPS takes its responsibilities towards NAGPRA very seriously, and addressed three areas of concern recently raised in the administration of NAGPRA: One, extensions of time for completion of inventories by museums, the Assistant Secretary for Fish and Wildlife determined that there will be no more extensions for museums; two, the issue of fairness in the allocation of NAGPRA grants, statistics show that 60 percent of all grants have been to tribes and 40 percent have been to museums; and three, the perceived conflict of interest with the NPS administration of NAGPRA, the NPS Archaeology and Ethnography Program has been doing an excellent job of administering this work and has direct experience and knowledge in many areas relevant to the administration of NAGPRA, including other areas where the NPS functions as both a land-managing agency and an agency that has oversight in the area of historic preservation. Ms. Stevenson stated that the NPS is committed and serious regarding its responsibilities and will work to resolve current and future concerns in the implementation of NAGPRA.

In response to a question by Mr. Minthorn, Ms. Stevenson stated that the NPS does not feel that there is a conflict of interest regarding the NPS implementation of NAGPRA. Mr. Bradley expressed concern about the decision to deny inventory extensions, explaining that he was aware that at least some of the affected museums were out of compliance due to the magnitude of the task and not because of lack of good faith. Mr. Bradley also mentioned the inequity of having penalties for lack of compliance by museums and not Federal agencies. Mr. O'Shea asked if the six affected museums were considered to not be acting in good faith since no more extensions will be granted. Ms. Stevenson explained that the Assistant Secretary and the DOI feel that the time for extensions has passed, but added that each case will be considered individually and a period of forbearance will be granted to those continuing to act in good faith. She agreed that the issue of noncompliance by Federal agencies needs to be seriously considered. Mr. Minthorn stated that museum extensions are a major concern of the Indian tribes and that tribal needs and traditions need to be examined when considering repatriation issues.

Review of the Agenda

Mr. McManamon welcomed the Review Committee members and audience members, and thanked the Review Committee members for their work toward the implementation of NAGPRA. He explained that the meetings, which are business meetings for the Review Committee, are open to the public with scheduled public comment periods and added that public comment periods are the only appropriate times for comment by audience members. Mr. McManamon then gave a brief review of the agenda.

Implementation Update

Mr. McManamon explained that each Review Committee member had a summary in their binder of the progress made in NAGPRA implementation.

Excavations and Discoveries

Mr. McManamon stated that the NPS continues to monitor human remains recovered through inadvertent discoveries and planned excavation activities, which are required to be published through newspaper notices. Regarding the human remains found at Kennewick, Washington, the DOI assembled a team of experts in archaeology and physical anthropology to examine the human remains in February and March 1999, using nondestructive recording and measurement of the human remains, for the purpose of determining if the human remains are Native American as defined by NAGPRA. Preliminary reports have been completed, and various representatives within the DOI are working toward consensus on that question. If the human remains are considered to be Native American as defined under NAGPRA, the next step would be to try to determine cultural affiliation and then an ultimate disposition of the human remains. Mr. Minthorn asked who would be making the determination of whether the human remains are Native American. Mr. McManamon explained that would include Native American individuals from various offices within the DOI, legal experts, and himself.

Museum/Federal Agency Collections

Federal Register Notices: Ms. Kelley reported that to date, the NPS has published 270 Notices of Inventory Completion, covering 15,722 individual sets of Native American human remains and 297,337 associated funerary objects. The NPS has also published 113 Notices of Intent to Repatriate, covering 39,974 unassociated funerary objects, 781 sacred objects, 483 objects of cultural patrimony, and 281 objects that fit both the sacred object and object of cultural patrimony categories. She explained that there are currently 180 notices waiting to be published, 40 of which are priority notices involving a repatriation claim. Ms. Kelley added that the NPS now has 753 inventories on file. Mr. Bradley expressed concern that the notice publication process was delaying repatriation efforts and asked Ms. Stevenson if there was a way to expedite the process. Ms. Stevenson replied that on April 21st, 1999 an appeal was made for additional resources, in part to assist with the notice process.

Grants: Ms. Mahoney explained that two types of NAGPRA grants are available, documentation grants and repatriation grants. She reported that the Fiscal Year 1999 grants appropriation was \$2.49 million. Approximately 3,000 grant applications were mailed to Indian tribes and museums in August of 1998, with deadlines in the fall of 1998. The NPS received 77 applications requesting a total of \$4.4 million; 56 tribal applications representing 52 Indian tribes and 21 museum applications representing 20 Indian tribes. She stated that six of the 77 grant applications were for repatriation grants to Indian tribes and added that 1999 was the first year repatriation grants were available for both Indian tribes and museums. Ms. Mahoney explained that the grants panel met in February and made recommendations for FY 1999 grants, which are currently awaiting approval within the DOI. She encouraged grant applications and explained that repatriation grants have no deadline.

Ms. Naranjo asked about the number of grants to Indian tribes and museums. Ms. Mahoney explained that from FY 1994 through FY 1998, 116 grants were awarded to Indian tribes totaling \$6.5 million and 89 grants were awarded to museums totaling \$4.2 million. She added that all museum grants are highly collaborative projects involving Indian tribes. Mr. Bradley agreed, and explained the details of a collaborative grant between the Robert S. Peabody Museum in Andover, Massachusetts and eight Federally recognized Creek and Cherokee tribes regarding the Etowah site. Mr. Minthorn asked about the makeup of the grants panel. Ms. Mahoney explained that the panel consists of four Federal agency officials, two of whom are Native American.

Civil Penalties: Mr. McKeown stated that nine allegations of failure to comply with the NAGPRA statute have been received by the NPS office. Three of the allegations were determined to not represent a failure to comply, four allegations are under review, and the remaining two allegations are under investigation.

Trafficking

Mr. McKeown stated that to date ten individuals have been prosecuted and found guilty under the trafficking provisions of NAGPRA, which are administered by the Department of Justice (DOJ). The most recent case involved an individual who was sentenced in December 1998 and received the maximum time in prison for the offense, as well as fines and money assessed to facilitate the repatriation of those human remains. In response to a question by Mr. Minthorn about the process of prosecuting trafficking situations, Mr. Sullivan explained that he has been a witness in trafficking prosecutions and stated that most cases start at the level of the US Attorney within the state and then go into the Federal court system within that state. He stated that it is important that prosecutors are well informed regarding NAGPRA, as in the cases he was involved with. Mr. McKeown added that at the Washington DC meeting in January 1998, the DOJ and the Federal Bureau of Investigation described their actions regarding NAGPRA.

Federal Compliance

Review of Comments on the Review Committee's Report: Mr. McKeown explained that in December 1998 at the direction of the Review Committee members, the NPS compiled the draft Federal Agency Compliance Report, summarizing the Federal agency reports to the Review Committee at the January 1998 Review Committee meeting. The report was circulated to the Federal Agency officials on March 3rd, 1999 for comment, and five agencies responded. Mr. McKeown explained that comments from the US Army Corps of Engineers clarified their original report and contained no new information. Comments from the Bureau of Land Management (BLM) included additional information from their original report. The Air Force did not give a report to the Review Committee in January 1998, and their response contained a new presentation. Comments from the Bureau of Reclamation included both clarifications of their original report and new information. The Tennessee Valley Authority did not report to the Review Committee in January 1998, and their response contained a new presentation and included their NAGPRA inventory.

Mr. Minthorn expressed concern about a number of issues contained in the Federal Agency Compliance Report. Fish and Wildlife Service (FWS); how will FWS fulfill its responsibility to implement NAGPRA at the regional office level, why is NAGPRA not a line item, comments that FWS will never be totally in compliance with NAGPRA, and comments that FWS has problems determining which Indian tribes to consult with. Bureau of Reclamation (BOR); what assurances are there that the BOR will implement and enforce NAGPRA at a regional level and comments that the BOR is having problems with consultation. BLM; comments that transfers of collections in and out of Federal control have complicated the search for NAGPRA materials, concern about how non-Federal repositories are caring for BLM's collections of human remains and artifacts, and comments that it could take years or decades for the BLM to come into complete compliance with NAGPRA. Bureau of Indian Affairs (BIA); comments that human remains and cultural items are being held in non-Federal repositories and a question about how they are being cared for by these repositories. Department of Transportation (DOT) and Federal Aviation Administration (FAA); what is the progress of developing guidelines for inadvertent discoveries? Forest Service (FS); what efforts are being made to get back collections currently held in Russia, Switzerland and Sweden, why have summaries and inventories not been completed for all national forests, problems with tribal consultation and what is the progress of the FS consultation guidelines and heritage management training course for line managers? Army Corps of Engineers (Corps); concern about how non-Federal repositories are caring for Corps collections of human remains and artifacts, what is the progress of summaries (46 percent completed) and inventories (14 percent completed), what is the status of consultation guidelines, and comments that the Corps does not have adequate funding to properly execute NAGPRA processes. Navy; how will the Navy fulfill its responsibility to implement NAGPRA at the commanding officer level of each institution, what progress has been made on inventories for the eastern US, and how will the Navy deal with inadvertent discoveries? Department of Energy (DOE), how is the DOE integrating NAGPRA within the mission of the DOE and are all sites at similar levels of understanding and compliance?

Mr. Minthorn stated that it would be helpful if these agencies had a Native American program coordinator or liaison, such as the Department of Defense (DOD), and added that the DOD has made great efforts to comply with the law

and consult with affected Indian tribes. Mr. Minthorn expressed concern with the NPS, the BLM, the Corps, Navy, Marine Corps, and the FS, and stated the report is very clear that Federal agencies are not in compliance with NAGPRA.

Mr. Bradley expressed concern about the accuracy of the reporting by Federal agencies. He cites, for example, that the BLM is the largest land-managing agency with 41 percent of all Federal lands under its control and yet has identified only 534 individual sets of human remains. Even though some human remains and items may be curated in non-Federal repositories, agencies still need to be accountable and comply with the law. Mr. Sullivan explained that one institution that has been denied an extension on inventory completion is the University of Texas at Austin, which holds collections from a number of Federal agencies.

Mr. McManamon stated that the report could be used to identify a base level of information provided by the Federal agencies and the problems the Federal agencies are experiencing in implementing NAGPRA. The information could then be used in the Review Committee's Report to Congress and as a reference for Federal agencies to address specific problems. Mr. O'Shea asked that the comments received later by Federal agencies be designated as such.

Department of the Interior: Mr. McManamon stated that the DOI has a department-wide program on museum property, which in part involves reporting by the different DOI bureaus that have museum objects in their possession and control and reporting on their care under curatorial guidelines. He explained that Assistant Secretary Berry asked the DOI agencies to report on their compliance with NAGPRA, as well as other aspects of the museum property programs. Information in this report, when finished, could be used to update the Review Committee's Federal Agency Compliance Report. Mr. McManamon added that the NPS had no new information to provide.

Review Committee Discussion of the Federal Agency Compliance Report: Mr. O'Shea explained that in drafting the Report to Congress, he outlined three basic principals regarding recommendations on Federal compliance previously discussed by the Review Committee members: one, NAGPRA compliance must be an agency priority; two, NAGPRA compliance goes beyond simple documentation and inventories and must include long-term tribal consultation on a government-to-government basis; and three, agencies must be accountable. Mr. Bradley suggested under the third principal that agencies should be accountable in the same manner as institutions. Mr. Sullivan suggested specifying that agencies should be accountable to Congressional Oversight Committees for their compliance with NAGPRA.

Mr. Sullivan stated that the language in the draft was very clear and strong regarding the Review Committee members' view on the subject of lack of Federal agency compliance. Mr. Bradley suggested adding a statement that the Review Committee members are concerned about the accuracy of agency reporting. Mr. Minthorn suggested that Federal agencies report which non-Federal repositories are holding their respective human remains and artifacts and what efforts are being taken to maintain their well-being. The Review Committee members decided to establish a regular system of monitoring Federal agency compliance through periodic updates from Federal agencies regarding compliance activities.

Discussion of Review Committee Meeting Protocol

Ms. Naranjo stated that with the Silver Spring, Maryland meeting being the fourth meeting of the current Review Committee and with the election of the new Review Committee Chair at the end of the meeting, that the development of Review Committee protocol was appropriate.

Dispute Resolution: The Review Committee members reviewed the previously approved dispute resolution procedures (See Attachment 1) and Ms. Metcalf raised several topics for discussion. The Review Committee members agreed upon the following:

All dispute resolution requests should be received in the NPS office and include all relevant background information. The Review Committee Chair and the Departmental Consulting Archaeologist (DCA) of the NPS will determine if a dispute will be heard before the Review Committee. If the Review Committee Chair and the DCA determine that consideration of a dispute is not appropriate, the requesting party may appeal that decision to the Review Committee as a whole at a subsequent meeting. Once a determination is made that a dispute will be considered by the Review Committee, a 90-day time frame will be necessary to give all parties an opportunity to prepare their information and submit it to the NPS for distribution. Each party to a dispute will receive all relevant information prior to the meeting. Members of the Review Committee must avoid inappropriate contact with the involved parties, and any communication regarding the dispute between the parties and the Review Committee members must be through the NPS. Regarding the expectation of resolution of a dispute, Review Committee members agreed that each case would have to be considered individually, taking into account the amount of information provided, the complexity of the issues involved and the wishes of the parties to the dispute.

Protocol: All requests for nondispute presentations should be received at least 30 days before the first day of a meeting. Abstracts must be submitted for oral presentations and determined to be relevant. Time limits should be established and adhered to for presentations and public comments, regardless of the number of presenters. Previously, public comments have been limited to ten minutes. Written submissions should be received in the NPS office at least 15 days before the first day of the meeting to be included in the Review Committee binder and will be acknowledged during the meeting; all written information submitted will be considered by Review Committee members and made part of the public record. Common protocol practices will be enforced during Review Committee meetings, ie., no participation or comment is accepted from the floor unless specifically recognized by the session Chair.

The NPS agreed to draft the changes and present the final protocol document for the Review Committee members' approval at the next meeting. In the interim, the draft protocol will be considered as official policy of the Review Committee.

Review Committee Operations: Ms. Naranjo stated that she had been Chair of the Review Committee since its inception six years ago, and felt that with the election of the new Chair a term needed to be established. Ms. Naranjo stated that she was in favor of the round-robin discussion practice adopted by the new Review Committee, ensuring every member is heard on each issue. The Review Committee members agreed to continue the current discussion practices and to follow the model of consensus for decision making within the Review Committee.

The Review Committee members were in favor of an established plan to keep updated on NAGPRA-related news, progress and issues on a regular basis, including updates through individual contact by the NPS staff on a weekly basis. Mr. O'Shea suggested that each member be given e-mail access. Review Committee members agreed that having a NPS staff member available to perform NAGPRA Review Committee duties would greatly aid the Review Committee. Mr. McManamon stated that is one of the areas covered by the request for additional resources previously mentioned by Ms. Stevenson.

The Review Committee members discussed the responsibilities of the Review Committee and how to best structure the meeting schedule to accomplish those responsibilities, including the possibility of three meetings per fiscal year. Mr. Bradley summarized four basic areas of Review Committee responsibility as monitoring implementation, making recommendations on the regulations, dispute resolution, and hearing public comment. The Review Committee members agreed that the top priority for the Review Committee is to develop a recommendation on culturally unidentifiable human remains, and that meeting agendas need to include adequate time for discussion of that subject. Mr. O'Shea pointed out that having regular updates from Federal agencies concerning compliance would make monitoring these agencies easier and less time-consuming at each meeting. The Review Committee members agreed to try to set a main topic of discussion for each meeting ahead of time and leave adequate time on the agenda to address these subjects. Meeting location and topics will be published in the Federal Register 90 days before a meeting to increase public awareness.

The Review Committee members agreed they would like to know when presenters and presentation topics are sponsored by authorized representatives of Indian tribes, Alaska Native villages and corporations, Native Hawaiian organizations, museums and Federal agencies or whether an individual is speaking personally. Priority can be given to sponsored representatives by the submission of written requests and information through the nondispute presentation process.

Discussion of NAGPRA Delegation

The Review Committee members discussed the possible move of NAGPRA responsibilities from the NPS to another department and the consequences. Ms. Metcalf, Ms. Naranjo, Mr. Minthorn, and Mr. Sullivan were in favor of the move, citing lack of resources and conflict of interest within the NPS as some of the reasons. Mr. Bradley stated that he felt the Review Committee should strive to conduct its business wherever it is assigned. Mr. Hart reserved comment. Mr. O'Shea stated that restructuring of the program is an internal matter to the DOI and felt that the discussion was inappropriate.

Review Committee's 1998 Report to Congress

Mr. O'Shea compiled a draft 1998 Report to Congress, which was provided to the Review Committee members prior to the meeting. Mr. O'Shea explained that the report consists of three categories, a summary of the Review Committee's activities over the past year, a section dealing with Federal agency compliance, and recommendations by the Review Committee. He added that the Federal Agency Compliance Report will be appended to the 1998 Report to Congress. The Review Committee members expressed appreciation for the draft and suggested the following clarifications and additions.

All statistics contained in the report will be updated to accurately reflect December 31st, 1998 figures. Ms. Naranjo asked for clarification of the eight additional full-time employees (FTEs) for the NPS requested in the report. Mr. McManamon explained that these positions were in addition to the current NPS staff, keeping in mind that some staff members are contractors and not FTEs at the present time. Mr. O'Shea stated that many figures were taken from the Review Committee's 1997 Report to Congress; for example, a request for an additional \$500,000 for the NPS to enhance administration. Review Committee members agreed that the completed 1998 Report to Congress should be made readily accessible to the public, such as posting it on the NAGPRA Website. Regarding the request for \$5 million for grants, Mr. Sullivan suggested adding wording to explain the increase such as, "This represents a doubling of the current available appropriation but more fully reflects the needs of Indian tribes and of museums in implementing the law in a timely way."

The Review Committee members agreed to remove the section requesting amendment of the statute to provide for a procedure that would allow legitimate, non-Federally recognized Indian groups to participate in repatriation of culturally affiliated human remains and objects. Processes have been developed that allow non-Federally recognized Indian groups to work with Federally recognized Indian tribes to effect repatriation of culturally affiliated human remains and materials and should be continued.

In response to instances where traditional religious leaders have been unable to repatriate sacred objects due to beliefs preventing disclosure of details of ceremonies or rites for which the objects are required, the Review Committee members expressed their belief that while there may be a standard in the law by which the appropriateness of a claim can be evaluated, it should not be necessary for a traditional leader to compromise religious principles in order to repatriate a needed sacred object. The Review Committee members inserted this recommendation into the report and added that while they do not believe this requires emendation of the Act, the Review Committee members would like to see the DOI move forward in implementing this.

The Review Committee members agreed to remove the section of the report summarizing specific figures from the Congressional Budget Office 1990 projection regarding the Federal cost of implementing NAGPRA, emphasize the remaining factual information, and add clarification that the real costs of implementation have been borne by Indian tribes, museums and universities.

Dispute Involving the Hopi Tribe and Chaco Culture National Historical Park

Background Information

Mr. McManamon welcomed all the officials, representatives and experts from the Hopi Tribe and Chaco Culture National Historical Park and thanked them for attending the meeting, for the time spent preparing for their presentations, and for the substantial amount of information provided to the Review Committee and the NPS. He stated that the letter from Chaco Culture National Historical Park dated April 12th, 1999 and the letter from the Hopi Tribe dated April 16th, 1999 both specifically addressed the five areas outlined in the Review Committee's dispute resolution procedures, as detailed in the March 12th, 1999 letters from the NPS to each party.

Mr. McManamon reminded the Review Committee members that they are under no obligation to reach a finding on the issue if additional time or information is needed, and added that any finding would be advisory in nature and not legally binding upon the parties. Mr. McManamon reiterated that the NPS carries out a number of responsibilities related to archaeology and historic preservation that extend beyond the units of the National Park system and that all decision making within the NPS is focused on the superintendent, the regional director and the director of each park. The extent to which individuals in the Washington DC office and the NAGPRA staff were involved in this matter strictly related to technical assistance that may have been provided to Chaco Culture Historical National Park, which would have been the same assistance provided to the Hopi Tribe and any other Indian tribe, museum or Federal agency.

Presentations on Behalf of the Hopi Tribe

Mr. Leigh Kuwanwisiwma, director of the Hopi Tribe Cultural Preservation Office, brought greetings from the Hopi Tribe. Mr. Clay Hamilton, research assistant with the Hopi Tribe Cultural Preservation Office, read a statement from Wayne Taylor, Jr., Chairman of the Hopi Tribe, in which Mr. Taylor explained that Aztec National Monument and Chaco Culture National Historical Park have not met the intent or standards of the law or the expectations of the Hopi Tribe with recent cultural affiliation decisions, and stated that the implicit assumption that nearly all southwestern Indian tribes are culturally affiliated with the two parks seem to have become a formal determination. The Hopi Tribe expects compliance with the letter of the law and its fundamental intent, that human remains and patrimony be identified and returned to the Indian tribe with whom they are genuinely culturally affiliated. Mr. Taylor urged the Review Committee to make no decision during the meeting, but to allow adequate time and resources to fully consider this issue.

Mr. Eldred Bowekaty, councilman for the Pueblo of Zuni, read a statement from Malcolm Bowekaty, Governor of the Pueblo of Zuni, expressing support on behalf of the Pueblo of Zuni for the Hopi Tribe's position on the NPS's incomplete and inadequate compliance with NAGPRA, further stating that the interpretation and application of the processes determining cultural affiliation by officials of the Chaco Culture National Historical Park and Aztec National Monument was inconsistent, arbitrary and self-disclosed as politically expedient. The Pueblo of Zuni revoked its signatory approval to the repatriation agreement for both Chaco Culture National Historical Park and Aztec National Monument and entered for the record the All Indian Pueblo Council resolution supporting the Hopi and Zuni Tribes' positions. Mr. Anthony Lucio, councilman for the Pueblo of Zuni, read the All Indian Pueblo Council Resolution 1999-12, passed April 22nd, 1999, supporting the Hopi and Zuni Tribes in disputing the flawed application of the process to determine cultural affiliation at Aztec National Monument, Chaco Culture National Historical Park and other parks, and asking for the NPS to reinitiate the full evaluation process in its determination of cultural affiliation at the two parks. Mr. Dan Simplicio, councilman for the Pueblo of Zuni, emphasized the strong

effort on behalf of the Hopi and Zuni Tribes to get other Pueblo leaders involved in this issue and explained that the All Indian Pueblo Council resolution would only be used for the protection of the Pueblo culture and would not be widely distributed.

Mr. Dalton Taylor, cultural advisor to the Hopi Cultural Preservation Office from the Village of Songoopavi, stated he was initiated into the priesthood of the Hopi Tribe. He explained that oral tradition contains the history of the migration of the Hopi Tribe, as well as cultural, traditional, religious practices and the language still spoken today. Mr. Taylor participates in repatriation of human remains for the Hopi Tribe, which involves reburial as close to the original burial site as possible. He stated that the Hopi Tribe is culturally affiliated with the other Pueblos. He urged the Review Committee to study this issue to try to find a solution that is good for both the Hopi Tribe and the NPS.

Mr. Wilton Kooyahoema, cultural advisor to the Hopi Cultural Preservation Office from the Village of Hotvela, stated he was initiated into the priesthood society and has knowledge of the migration patterns of the Hopi Tribe. The Hopi Tribe migrated from all four corners of the world leaving evidence behind in the form of pottery, ceramics, and petroglyphs detailing clan information. He emphasized the importance of taking on the responsibility for reburial of ancestors human remains and saying the correct prayers, and explained that some traditions and religious beliefs need to be kept sacred. He urged the Review Committee to think about this issue very carefully.

Ms. Linda Cordell, director of the museum at the University of Colorado, explained that she was an archaeologist with 28 years experience in the Southwest. She was asked by the Hopi Tribe to review information relevant to this matter. Ms. Cordell determined that the processes by which the determination of cultural affiliations were made by Chaco Culture National Historical Park were flawed. NAGPRA legislation requires Federal agencies and museums to determine cultural affiliation based upon multiple lines of evidence of shared group identity, which is different from simple cultural relationships. She stated that in reviewing the documents of Chaco Culture National Historical Park, it was difficult to follow the path of logic of how their determinations were made. The determinations, which were to be made on a case-by-case basis, appeared to have been made as a group.

The issues in this case were made more difficult because cultural affiliation is being claimed by more than one group and specifically by groups that deny each other's claims. Ms. Cordell explained that there is abundant evidence supporting Puebloan archaeological affiliation with Chaco Culture National Historical Park and Aztec National Monument and points out that the evidence for cultural affiliation with the Navajo Tribe is indicated as negative evidence, raising questions of how different kinds of evidence should be weighed in making determinations of cultural affiliation. Chaco Culture National Historical Park listed the cultural affiliation of the past group as Anasazi. Ms. Cordell explained that the term "Anasazi" is an archaeological term adapted from the Navajo, which means "enemy ancestor" or "someone else's ancestor." While there is no dispute that for well over 200 years Navajo people and their ancestors have been living in an area once occupied by Pueblo people, there is no evidence that the Navajo people either built or lived in the structures that are of concern in this issue.

She explained that while biological evidence proves intermarriage occurred between Pueblo and Navajo peoples, that is not the same as cultural identity. Navajo clans who claim they can trace their ancestry to Pueblo people are still Navajo culturally and have not been initiated or possess traditional knowledge necessary to bury Pueblo ancestors. Ms. Cordell stressed the importance of consulting individually with Indian tribes on a case-by-case basis to determine cultural affiliation of human remains and associated objects due to the confidential and sacred nature of the information.

Mr. Kuwanwisiwma summarized the Hopi Tribe's position that the evaluation process used by Chaco Culture National Historical Park and Aztec National Monument to determine cultural affiliation was flawed. The record will show that the parks, citing volatile and irreconcilable issues surrounding the determination of cultural affiliation, assembled a consortium of Indian tribes in the hope that they would agree in some manner to complete the repatriation and reburial process. Individual tribal consultations were not conducted. The Indian tribes were given a Memorandum of Understanding (MOU) to solidify the consensus among the Indian tribes regarding the repatriation scope of work. The Hopi Tribe expressed displeasure with this process, ultimately withdrew from the MOU in June

of 1998, and challenged the parks to comply with NAGPRA. Under the Freedom of Information Act, the Hopi Tribe requested all documentation from the two parks, which was also provided to the Review Committee.

The Hopi Tribe is asking the Review Committee for a complete review of how the law was applied by the two parks. The law calls for an evaluation of shared group identities with present-day Indian tribes as they exist today through the traditional, political, social and religious settings, and then a determination of whether or not that shared group identity can be reasonably traced with a preponderance of the evidence to an identifiable earlier group.

Mr. Kuwanwisiwma stated that no Indian tribes were given an opportunity to participate in this process and that a homogenizing of Puebloan groups was done. Even though some common traditions exist today within the different Puebloan groups, their shared group identity is very unique as Puebloan people. Currently, the Hopi Tribe has 34 living clans and have had as many as 60 in the past. The Hopi Tribe has traditions of eight clans and three ceremonies in Chaco Culture National Historical Park and eight clans in Aztec National Monument.

The Hopi Tribe is asking Chaco Culture National Historical Park and Aztec National Monument for a complete reevaluation of the process of determining cultural affiliation working independently with all of the Indian tribes through the consultation process and stressed that guidelines or interpretation of the definition of cultural affiliation needs to be addressed by the Review Committee. Mr. Kuwanwisiwma stated that the Hopi Tribe wants the Review Committee to fully understand both the technical and legal aspects of this dispute and take time to consider the merits of each party before making a finding.

Presentations on Behalf of Chaco Culture National Historical Park

Mr. Charles Wilson, superintendent of Chaco Culture National Historical Park, stated that Chaco Culture National Historic Park acknowledges that the determination of cultural affiliation under NAGPRA is a sensitive issue and is further complicated in this case due to the political nature of the dispute. The park produced an inventory of human remains and associated funerary objects, consulted with 25 Indian tribes, and using the lines of evidence required under NAGPRA determined that 20 Indian tribes are likely to be culturally affiliated based on a preponderance of evidence of a shared group identity between the people who occupied Chaco Canyon 1,000 years ago and the present-day Indian tribes. The issue at dispute is how the determination was made for Navajo cultural affiliation.

Chaco Culture National Historical Park believes that a one-to-one direct cultural affiliation of a single present-day Indian tribe with the past inhabitants of Chaco Canyon, the Chaco Anasazi, is not supported by current archaeological, biological or geographical evidence; the Chaco Anasazi could be characterized as being ancestral to many of the present-day Pueblos and Indian tribes of the Southwest. Cultural affiliation was determined in good faith by the processes set forth in NAGPRA, and regarding the determination of Navajo cultural affiliation specifically included expert opinion, biological, anthropological, geographical and historical lines of evidence. Each line of evidence was considered as having equal weight, and all lines of evidence, both positive and negative, were taken into consideration. Chaco Culture National Historical Park requests the Review Committee members' assistance in finding common ground of the issue of determining cultural affiliation under NAGPRA.

Ms. Alexa Roberts, anthropologist, Santa Fe office, NPS, summarized the efforts of the NPS Santa Fe office to assist parks in making determinations of cultural affiliation for NAGPRA inventories by assisting with tribal consultations and providing information. Ongoing or existing ethnographic studies relevant to the different southwestern parks were utilized. Between June and October 1995, the Santa Fe office conducted four multitribal/multipark consultation meetings, and preliminary inventory data from 42 parks, including Chaco Culture National Historical Park, were presented to 24 Indian tribes. Notes and summaries of the information from the meetings were sent to the parks to be used to assist parks in making cultural affiliation determinations. Between August and November 1995, six specific NAGPRA meetings were conducted, two of them specifically with Pueblo representatives and one with the Navajo Nation.

Because the Navajo claim of cultural affiliation was controversial enough to warrant a higher standard of ethnographic evidence than Puebloan claims, the Navajo Nation was asked to submit a bibliography of ethnographic

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references to Navajo cultural affiliations with those parks with Anasazi human remains in their possession. In October of 1995, the Navajo Nation submitted a 129-page study documenting the ethnographic literature referring to traditional Navajo associations with 14 southwestern parks, nine pages of which specifically referred to sites within the boundaries of Chaco Culture National Historical Park and contain reference to traditional Navajo stories or ceremonies in which places in Chaco play a prominent role. This study was provided to all parks containing Anasazi resources or collections in 1997.

Ms. Roberts explained that since the submission of the NAGPRA inventories, the Santa Fe office has provided assistance to the parks only as requested, with the exception of sponsorship of a series of conferences on contemporary tribal cultural affiliations with ancestral people of the Colorado Plateau. Information from the conferences will be distributed to conference participants and all parks with Anasazi resources or collections.

Mr. David Brugge, anthropologist, stated that his interest for many years has focused on the Navajos and summarized his paper entitled "Navajo Religion and the Anasazi Connection." Southern Athabaskan occupancy in the Southwest, Navajo ancestors, can be dated with fair confidence back to shortly before the 1500s, with evidence that Navajo ancestors were practicing agriculture by the early 1500s. Navajo agriculture undoubtedly was derived ultimately from Puebloan sources, for most of their domestic plants were descended from wild progenitors native to regions farther to the South. The four sacred plants of Native American agriculture are important symbols in much of Native ritual and religion, with maize being a major motif in religious art, thought and practice.

Navajo people traded with Pueblos and were allies with various Puebloan groups against the Spaniards in the 1500s and 1600s. Since one of the major impacts of Spanish rule on the Pueblo peoples was the suppression of their religion, a natural conclusion would be that many who fled to join Navajo groups would have been priests and other religious individuals of the Puebloan people. Many aspects of the present Navajo religion go back to Anasazi roots, possibly in part through the incorporation of Anasazi people in prehistoric times and indirectly through the immigration of Pueblo people fleeing Spanish rule. In summary, Navajo people not only incorporated most of Southwestern culture into their way of life but welcomed as immigrants peoples already living in the area, thus having both cultural and biological roots linking them to the region.

Mr. David Glenn Smith, professor of anthropology at the University of California Davis, stated his specialty was in human genetics with interest in genetic differences among Native American populations, particularly in North America. Of interest recently has been the establishment of ancestral descendant relationships between prehistoric Native American groups and extant groups throughout North America. He references a document he authored titled "Biological Evidence Pertaining to the Navajo Claim of Affiliation with Anasazi," which details research, by Mr. Smith and others, supporting Navajo claims to cultural affiliation with Anasazi human remains. The study of morphometric or skeletal biological data demonstrates differences in Native American groups from various geographical regions. The study of dental genetics ultimately demonstrates a close relationship between Athabaskan and Puebloan peoples and the close relationship between Navajo, Pueblo and Anasazi peoples. Studies of blood groups from the 1950s show evidence for genetic interaction between Southern Athabaskan populations and Puebloan peoples. Studies of mitochondrial DNA, specifically haplotypes, are consistent with the association between Pueblo groups and Navajo and suggests a substantial amount of Pueblo admixture in Navajo peoples.

Mr. James Charles, superintendent of Navajo National Monument, stated he was speaking as a member of the Navajo Nation, culturally affiliated with two traditional clans by birth. He related the traditional history of his family detailing ties to other Indian tribes, and added that being Navajo does not preclude people from having biological and traditional relationships with other Indian tribes. Multiple heritage is not uncommon among Native Americans. He asked the Review Committee to consider the question: Should a person who is one-half Navajo and has biological relationships with another Indian tribe be denied this dual heritage, history and culture? He thanked the Review Committee for allowing him to share his belief and the beliefs of the Navajo people regarding their connection to other cultures.

Mr. Ronald Largo and Mr. Steven Begay (Translator), medicine man of the Navajo Nation from Mariano Lake, New Mexico, recited oral tradition linking prehistoric inhabitants of many Chacoan sites together, including the Pueblos, the Navajos, and the Utes. At one time these people worked together at Chaco and they each had different responsibilities, to farm, gather wood, make baskets and pottery, and building the ruins, which was the responsibility of the Pueblo people. Tradition tells that the leader, called the Gambler, gave the different groups the different languages and ceremonies, which ultimately caused the people to separate and go to different places taking along their specialties; the Hopis with their farming, the Pueblos of the Rio Grande with their pottery, and the Zuni people with their birds. Even though the people now talk differently and have different lifeways, the stories tell that they were all one people and came from the same place; even though the Hopi say their stories are different, the Navajo stories are similar. Many existing traditional Navajo ceremonies come from the places once inhabited by the Anasazi.

Mr. Eric Blinman, archaeologist and assistant director with the Museum of New Mexico's Office of Archaeological Studies, stated that the ethnohistoric view of the modern southwestern people is very complex, taking into consideration lines of descent and lines of cultural affiliation. When there is intermarriage between two adjacent groups, the person coming into the group usually adopts the language and conforms to the cultural norms of the group, creating very complex ties. This is one reason why traditional histories can come down to family and clan histories rather than group histories. This leads to degrees of cultural affiliation in the prehistoric and historic Southwest, not simply yes/no cultural affiliations. The issue in question is the controversy of what is the nature of cultural affiliation and what does closeness or distant cultural affiliation mean within the framework of implementing NAGPRA, as NAGPRA does not formally accept the concept of degrees and types of cultural affiliation in other than the yes/no listing on the NAGPRA inventory form. Mr. Blinman then briefly reviewed a paper he wrote and submitted to the Review Committee which reconstructs the ancient ethnicity in the development of southwestern cultures, from the Late Archaic time period through the Ethnohistoric period.

Review Committee Discussion

Mr. Hart noted that in the record of the Chaco Culture National Historical Park NAGPRA consultation meetings, the Hopi Tribe participated in the very first meeting in June of 1990 and then again in June of 1996, and he asked Hopi representatives the reason for their nonattendance. Mr. Kuwanwisiwma replied that because further consideration of the period in question would be needed, he was not prepared to offer an explanation for why there was no documentation of the reason, but one possibility is that the Hopi Tribe was not involved in communications with the parks. Ms. Naranjo asked representatives of both parties which lines of evidence were used to make a determination of cultural affiliation. Ms. Dabney Ford, cultural resource manager for Chaco Culture National Historical Park, replied that for determination of Navajo cultural affiliation the evidence was biological, oral history, geographical, expert opinion, kinship and anthropological; for Puebloan people the lines were biological, oral history, geographical, expert opinion, kinship, archaeological and linguistics. Ms. Bustard stated that during the consultation process, the Navajo Nation asserted that they did feel a direct ancestry with the Anasazi, and Mr. Largo added that the Navajo are stating their cultural affiliation because the ceremonies and clans came from Chaco.

Mr. Bradley stated that determination of how cultural affiliation is made and whether appropriate consultation occurred is important and very much a part of the Review Committee's charge in implementing NAGPRA. He raised some thoughts for the Review Committee members to consider; how do the Review Committee members evaluate a determination of cultural affiliation, how can multiple lines of evidence be weighed, and are determinations of shared group identity and cultural affiliation yes/no or measurable by degrees. He suggested that the Review Committee members could develop guidelines for weighing evidence to help make the process more predictable and equitable, and added that the process of weighing evidence needs to be comprehensive, consistent and replicable.

In response to a question by Mr. Sullivan, Mr. Wilson stated that decisions made at the consultation meetings regarding repatriation issues were made by the consultation committee and not the park. Mr. Kuwanwisiwma further explained that the Hopi Tribe questioned the process of how the park was making the determination of cultural

affiliation through the MOU and went on record as not participating in the finalization of the MOU. He explained that a further decision was made by the Hopi Tribe in good faith to voluntarily withdraw as a repatriating entity after being told that if the Hopi Tribe asserted repatriation then the Navajo Nation would also. Mr. Wilson stated that the law was unclear regarding determinations of cultural affiliation, allowing any Indian tribe that wanted to be put in for cultural affiliation based on geographic and oral traditions to be accepted, and he stated one approach would be to utilize weighing of evidence rather than cultural affiliation being an either/or situation.

Ms. Metcalf asked if the consultation process protected the tribal privacy. Mr. Kuwanwisiwma replied that all meetings were an open audience forum where primarily administrative procedure topics were discussed. Indian tribes did not discuss traditions or religion because that is not allowed. Mr. Minthorn asked each party if cultural history needs to be interpreted to reach an indication of cultural affiliation. Mr. Wilson replied that cultural history does need to be considered. Mr. Kuwanwisiwma also agreed and added that shared group identity is incumbent on some assessment of present-day Indian tribes to try to determine if there can be a linkage to an earlier group.

In response to Ms. Naranjo's concern about a potential conflict of interest with Ms. Bustard's work involving Chaco Culture National Historical Park and her recent work detail assignment to the NPS NAGPRA office, Ms. Bustard and Mr. McManamon clarified that the work detail was organized before this matter became a dispute in an effort to reduce the backlog of notices at the NAGPRA office. Ms. Bustard was allowed to proceed with the work detail with the understanding that her role at the NAGPRA office was strictly limited to working on Notices of Inventory Completion, and she was restricted from any dealing with the current dispute, the parties to the dispute, and any contact with Review Committee members or information. Ms. Bustard was present at the current Review Committee meeting in her capacity as curator for Chaco Culture National Historical Park due to her involvement in the process of determining cultural affiliation.

Mr. O'Shea expressed concern that in a review of the records the primary motivation of Chaco Culture National Historical Park seemed to be to get rid of the problem of the human remains and artifacts through repatriation or reburial and a desire to avoid the whole question of cultural affiliation, even though such actions were contrary to the law. Regarding the process of determining cultural affiliation, he stated that choosing not to weigh evidence is a form of weighing evidence that is wrong because nothing is ever equal. And likewise, a determination of collective cultural affiliation that says everyone is culturally affiliated seems to be tantamount to saying there is no cultural affiliation. The park's procedures seem to follow the Review Committee's second effort at defining disposition of culturally unidentified human remains where the definition of cultural affiliation was weakened and a broader idea of relationship was adopted. Mr. O'Shea stated that the Review Committee members may want to consider both cultural affiliation and cultural relationship in this process of developing guidelines for culturally unidentifiable human remains.

In response to Mr. O'Shea's question about the park's decision to treat all the collection as a group, Ms. Bustard replied that early in the consultation process, tribal representatives seemed very concerned that the human remains and artifacts be reburied and work was undertaken to return all Chaco human remains to a reburial site in Chaco designated by the consultation committee. As a result, the collection was treated as a group. Ms. Bustard stated that she did not believe there would have been any advantage in the determination process to making distinctions between the human remains as the conclusions would have been the same. Mr. Wilson added that due to discussion and pressure during the consultation meetings to return the burials to Chaco, he asked the consultation team to develop a way to avoid the issue of cultural affiliation and still execute the burial, as there was no real resolution to the issue of Navajo cultural affiliation. After the Hopi withdrawal from the MOU in 1997, due to the lack of total consensus with the method, the park stopped the process and decided to follow the exact letter of the law from that point forward. Mr. Kuwanwisiwma explained that the Hopi Tribe's position is that the law clearly charges Chaco Culture National Historical Park to determine cultural affiliation on an object-by-object basis and, secondly, that association to a place does not meet the standards of the law.

Mr. Sullivan asked the park about the possibility of reinitiating the evaluation process for the determination of cultural affiliation, as requested in the All Indian Pueblo Council resolution, or if the park's position would be that

the materials are as submitted. Mr. Wilson stated that an item-by-item evaluation of 741 items would take some time, but without guidelines for cultural affiliation, probably no further action would be taken. Mr. Kuwanwisiwma stressed the importance of developing guidelines for the determination of cultural affiliation, since other parks are ready to publish in the Federal Register. Mr. Wilson added that in addition to guidelines being developed, the two Indian tribes in this issue need to come to an agreement or compromise. Mr. Bradley asked Mr. Wilson if he felt that appropriate consultation meeting the statutory definition occurred between Chaco and the Hopi Nation, even if the Hopi believe that it did not, and Mr. Wilson replied that it did. Responding to Mr. Bradley's question regarding the appropriate role of Navajo Nation in the repatriation process at Chaco, Mr. Kuwanwisiwma replied that the Hopi Tribe has absolutely no dispute with Navajo interests into clearly Navajo human remains, and until some finality is reached in the current cultural affiliation issue, the Navajo people need to allow the Puebloan people to expressly and explicitly be involved in the repatriation process.

Discussion Regarding Disposition of Culturally Unidentifiable Human Remains

Discussion of Draft Principles: Mr. Bradley reviewed the history of the Review Committee in dealing with the issue of culturally unidentified human remains and explained that over the past few years, the Review Committee members have made three attempts at drafting recommendations. Mr. Bradley and Mr. Sullivan described the first two attempts, drafted by the members of the previous Review Committee, and the third attempt drafted by the current members of the Review Committee in Portland, Oregon, entitled "Draft Principles of Agreement Regarding Disposition of Culturally Unidentifiable Native American Human Remains."

Mr. Bradley explained that he expanded the draft principles document based on past comments of Review Committee members and the NPS staff.. He briefly described the draft principles document, which is divided into three categories; the intent of NAGPRA, culturally unidentified human remains, and guidelines for disposition (See Attachment 2). Mr. Sullivan suggested that the draft principles be widely distributed, and Review Committee members discussed circulating the document for comment by posting it on the Website, having the NPS do a mailing, and publishing the draft principles as a discussion document in the Federal Register.

Request from California State University - Fresno: Ms. Ellen Gruenbaum, School of Social Sciences, California State University, Fresno, explained that the university has 38 identifiable human remains for which the Federal Register notice publication has been completed, and 122 human remains that are culturally unidentified. She stated that the Indian tribes culturally affiliated with the identifiable human remains have chosen not to accept the human remains until repatriation can also be completed on the culturally unidentified human remains. The Tuolumne Me-Wuk would like to accept their four sets of human remains for reburial and the remaining human remains will be accepted and buried by Santa Rosa Rancheria of the Tachi Yokuts. Consultation has been done with all concerned Federally and non-Federally recognized Indian groups in the area and two petitions dated April 15th, 1999, have been prepared dealing with this issue. The first petition authorizes a group called the Central Valley and Mountain Reinterment Association to act on behalf of all parties to accept the human remains, and the second petition authorizes the Santa Rosa Rancheria of the Tachi Yokuts to rebury the human remains. All 15 parties to the agreement, including four Federally recognized Indian tribes, have signed the agreement, with the exception of the Table Mountain Rancheria, which has expressed verbal agreement and intent to sign. Ms. Delores Roberts, North Fork Rancheria, and Ms. Reba Fuller, Tuolumne Me-Wuk, expressed agreement with the proposed repatriation on behalf of their Indian tribes.

The Review Committee members expressed appreciation for the presentation and the proposal, stating that this was a good model for a regional process of disposition of culturally unidentified human remains, and unanimously approved the repatriation proposal. Mr. McManamon stated that the NPS will prepare a letter to the California State University Fresno to that effect.

Request from the Commonwealth of Virginia: After reviewing the written documentation concerning repatriation of human remains to the Monacan Indians by the Commonwealth of Virginia, the Review Committee members

discussed the issue and agreed that more information would need to be presented before a recommendation could be made. The Review Committee members were specifically interested in information confirming fulfillment of inventory requirements, documentation of adequate consultation with other state recognized and Federally recognized Indian tribes, and a more comprehensive proposal of a regional model for dealing with culturally unidentifiable human remains in Virginia, since there are no Federally recognized Indian tribes in the state. Review Committee members added that representation of the parties at the next Review Committee meeting would be helpful. Mr. McManamon stated that the NPS would send a letter to the Commonwealth of Virginia outlining the Review Committee members' requests.

Request from the Peabody Museum of Archaeology and Ethnology/Request from the New Hampshire Division of Historical Resources: Ms. Barbara Isaac, Peabody Museum of Archaeology and Ethnology, explained that the Peabody Museum is requesting a recommendation to repatriate human remains and associated funerary objects from the states of Vermont and New Hampshire, culturally affiliated to the non-Federally recognized Abenaki. Ms. Patricia Capone explained that the 1996 guidelines for culturally affiliating to non-Federally recognized Indian groups established by the Review Committee were following in this process. Consultation occurred between the Abenaki people and the Peabody Museum in which the Abenaki people shared extensive oral tradition information regarding their traditional territory and time depth. In December 1998, the Peabody Museum requested letters of support from all Federally recognized Indian groups in New England and received letters of support from the Mohegan Indian Tribe and the Narragansett Indian Tribe. The collections include 30 human remains and three funerary objects; two human remains from Vermont and 28 from New Hampshire. A relationship of shared group identity was established for all of these human remains with the Abenaki people based on published literature, oral tradition, and linguistic, archaeological and historical information. Ms. Capone asked if funerary objects are included under the law if human remains become culturally affiliated to non-Federally recognized Indian groups. Mr. McManamon and Ms. Mattix stated that the law calls for retention of human remains that are not culturally affiliated but was not clear regarding funerary objects, and stated they will try to get an answer to that question.

Ms. Donna Roberts, repatriation coordinator for the Abenaki Nation, explained that the Abenaki Nation of Missisquoi is first on the list for consideration by the BIA for Federal recognition when the Nipmuc petition is competed. She explained that spiritual requirements dictate when reburials can take place, and a desire to rebury these human remains in the fall was the reason for asking the Review Committee for a recommendation at this time. She explained her successful efforts getting support from area Indian tribes on this repatriation request.

Mr. Gary Hume, on behalf of the New Hampshire Division of Historical Resources, the Manchester Historical Association, the University of New Hampshire and the Franklin Pierce College Department of Anthropology, explained that the human remains listed from the state of New Hampshire are the remaining Native American human remains in New Hampshire museums that have not been repatriated. He explained that the 17 human remains at issue come from 11 sites across most of southern New Hampshire. Consultation efforts have been ongoing with the Abenaki and other organizations regarding repatriation since 1990. Cultural affiliation with the Abenaki has been determined through oral tradition, geographical, time depth and linguistic information. Mr. David Stewart-Smith presented linguistic information in support of the cultural affiliation. Mr. Hume explained that there is unanimity within the archaeological community, the academic community, the Abenaki community and other tribal groups on this approach for all human remains being recommended for repatriation.

Mr. Sullivan expressed concern that written support was not provided from all Federally recognized Indian tribes, most notably the Wampanoag and Wabenaki Confederacies. Ms. Ramona Peters of the Wampanoag Confederation stated that the confederation was interested in consulting with the Abenaki regarding protection of the repatriation site. She added that she would bring the matter up for discussion, but she did not see any problem with Wampanoag Confederation support for this repatriation. Mr. Sullivan and Mr. O'Shea asked for some clarifications regarding the evidence presented in the case. Ms. Capone, Mr. Hume and Ms. Roberts responded with clarifications of the archaeological evidence, biological evidence and oral tradition. Mr. O'Shea then stressed the importance of keeping the lines of evidence straight when weighing the different types of evidence in these determinations. Mr. Bradley stated that the recommendation before the Review Committee includes human remains that are culturally

unidentifiable due to cultural affiliation with a non-Federally recognized Indian group and human remains that are culturally unidentifiable because they cannot be connected with a present-day group.

The Review Committee members approved the repatriation of the human remains to the Abenaki Nation upon receipt of written letters of support from both the Wabanaki Confederacy and the Wampanoag Confederacy.

Mr. McManamon stated the NPS would send letters to the Peabody Museum of Archaeology and Ethnology and the New Hampshire Division of Historical Resources outlining the recommendation. The Review Committee members commended the parties on their presentation.

Election of Review Committee Chair

Mr. Hart thanked Ms. Naranjo for her service as Review Committee Chair for the past six years and expressed appreciation for her leadership of the Review Committee. Mr. Hart nominated Mr. Sullivan to be the Review Committee Chair through June 2000, the remainder of his appointment. Mr. Hart stated that Mr. Sullivan possessed the experience, respect and insight necessary to Chair the Review Committee through the challenges of the next year. Mr. Sullivan expressed the opinion that the Review Committee Chair should be a Native American. However, with Ms. Metcalf, Mr. Minthorn and Mr. Hart indicating they were unable to fulfill the duties of Chair over the next year and their subsequent approval of his nomination, Mr. Sullivan accepted the nomination of Chair. The Review Committee members agreed unanimously to elect Mr. Sullivan as Review Committee Chair.

Discussion of Washington College

Regarding allegations of Washington College's failure to comply with NAGPRA, Mr. McManamon explained that the NPS is in the process of preparing a communication to the Assistant Secretary with an evaluation of the situation, and will proceed as quickly as possible given the current time constraints on the NPS NAGPRA staff.

Upcoming Meetings

After discussion, the Review Committee members tentatively set the next two meetings for August 1999 in Salt Lake City, Utah and December 1999 or January 2000 in Nashville, Tennessee.

Review of Minutes of Santa Fe, New Mexico

The Review Committee members agreed unanimously to approve the minutes of the Santa Fe, New Mexico meeting on December 10, 11, and 12, 1998.

Public Comment

Mr. Steve Banegas, Twelve Kumeyaay Bands of Southern California and Kumeyaay Cultural Repatriation Committee, stated the KCRC is a coalition of the twelve Kumeyaay Bands of Southern California and the six Luiseno Nations. He explained that repatriation issues are so sacred to the Kumeyaay people that it took ten years to form this coalition because they wanted to choose the right people. He urged the Review Committee to consider the position paper presented by the KCRC and explained by Ms. Laura Miranda.

Ms. Barbara Crandell, Native American Alliance of Ohio (NAAO), stated that she asked to be placed on the agenda for a dispute, but was placed in the public comment section. She explained that in May 1998 she was informed that an antique shop had in its possession and planned to sell a human skull. Ms. Crandell purchased the human skull and immediately turned it over to the police and then the FBI. At the Ohio State University, a determination was made that the top part of the skull belonged to an adult and the lower jaw belonged to a young person between the ages of

13 and 18. Ms. Crandell was told that the FBI was not going to prosecute the sellers because they lacked criminal intent. She stated that trafficking in human remains is illegal under 18 US 1170 and these individuals should be prosecuted; therefore, she has a dispute with the DOJ. Mr. McManamon explained that this issue was not a dispute as heard by the Review Committee, but that the NPS could contact the DOJ and make a further inquiry into the situation.

Mr. Alan Downer, Navajo Nation historic preservation officer and director of the Historic Preservation Department, stated that he would like to respond to allegations made against the Navajo Nation and Peabody Coal Company by the Sovereign Dineh Nation at the previous Review Committee meeting in Santa Fe, New Mexico. At that meeting, the Navajo Nation was not offered an opportunity to respond. Mr. Downer summarized a written response given to the Review Committee members. The Sovereign Dineh Nation is not culturally affiliated with the Navajo Nation government, and the people represented by the Sovereign Dineh Nation are mainly individual Navajo who are resisting relocation from the Hopi partitioned lands and Black Mesa in the Peabody Coal Mine leasehold. The Navajo Nation Historic Preservation Office has met regularly with the Sovereign Dineh Nation and every place identified as being of traditional importance by the Sovereign Dineh Nation has been or is currently being evaluated for consideration under the National Historic Preservation Act or NAGPRA. Human burials found on the Navajo Nation are treated in accordance with the Navajo Nation's policy for the protection of grave sites, human remains and funerary objects, which is completely consistent with NAGPRA and its implementing regulations, and involves reburial as close to the original site as is possible.

The Peabody Coal Mine has identified, recorded and avoided a number of traditional cultural places, including places identified by the Navajo individuals who testified before the Review Committee in Santa Fe. The Black Mesa and Kayenta Mines operate under a permit issued under the Surface Mining Control and Reclamation Act, which prohibits coal mining close to cemeteries. Mr. Downer explained that the Peabody Coal Company has made a very real effort to work with Indian tribes and deal with the environmental consequences of the mining. In summary, there is no basis for concluding that the Peabody Coal Company has intentionally or systematically violated NAGPRA or the Archaeological Resources Protection Act. Despite the sensational nature of the claims made by the Sovereign Dineh Nation, in repeated efforts the Navajo Nation Historic Preservation Department has been unable to identify any actual evidence to support them.

Regarding the dispute between the Hopi Tribe and Chaco Culture National Historical Park, Mr. Downer stated that while the Navajo Nation was not a party to this dispute, the Nation is a party at interest; the dispute is really between the Hopi and the Navajo. Mr. Downer clarified their position that the Navajo Nation did not request repatriation of the human remains, but simply claimed cultural affiliation. Neither Chaco Culture National Historical Park nor the Navajo Nation are proposing that the Navajo Nation will be physically participating in the reburial.

Ms. Naranjo and Mr. McManamon explained that a response was not requested from the Navajo Nation in Santa Fe out of courtesy and a desire to not put representatives of the Navajo Nation on the spot, and they expressed appreciation for Mr. Downer's presentation and clarification of the issues.

Ms. Martha Graham, American Museum of Natural History, explained that the museum was one of the six museums denied an additional extension for the completion of inventories. The museum is committed to completing the inventories and will be working to balance the need to meet the deadlines with the responsibility for adequate consultation with the Indian tribes. Regarding the issue of the determination of cultural affiliation, Ms. Graham explained that the museum has material from both Aztec National Monument and Chaco Culture National Historical Park for which no determination of cultural affiliation has been made to date.

Mr. Michael Haney, Seminole Nation of Oklahoma, expressed concern about lack of progress in repatriation of human remains and the continual excavation of human remains. He explained that he has participated in repatriations of over 6,000 relatives, without any money from NAGPRA grants or his Indian tribe, and described efforts to protect sacred sites on Federal property. Mr. Haney wants an accounting of NAGPRA monies, how much has been given to Indian tribes, how much has gone to museums and scientists, and for what purpose. He

emphasized the importance of traditional input and Native American participation in ceremonies because only people active in ceremonies should be allowed to participate in repatriations. Mr. Haney would like to see NAGPRA administrated through the Office of Trust Responsibility instead of the NPS.

Mr. Keith Kintigh, president of the Society for American Archaeology (SAA), thanked the Review Committee members for their work in implementing NAGPRA. He described comments by Senator Inouye during Senate testimony concerning sacred objects, wherein Senator Inouye recommended involving members of the Native, museum, and scientific communities to develop a definition of sacred object. Mr. Kintigh expressed hope that the Review Committee develop guidance on determining cultural affiliation, and explained that even though SAA argued for degrees of cultural affiliation in the law, Congress made this a yes/no determination. One conclusion could be that there is a relatively high threshold that needs to be reached in terms of closeness before achieving a level of cultural affiliation. Mr. Kintigh urged that the balance provided in NAGPRA between Native and public interests be maintained by allowing scientific and museum communities a significant role in the decision making process proposed for culturally unidentifiable human remains.

Mr. Ronald Little Owl, Three Affiliated Tribes and the North Dakota Intertribal Reinterment Committee, stated that he is a spiritual leader and his responsibilities include trying to provide answers to questions and heal sickness. He agreed with Ms. Miranda that spiritual people need to be sitting on the Review Committee. Mr. Little Owl stated that he was a spiritual man, gave examples of his ability to identify culturally unidentifiable human remains, and stated that he would identify human remains when asked. He described his definition of sacred as being three levels; the first level is a spirit, the second level is language, and the third level is himself. Mr. Little Owl explained that he wrote his definition of sacred with his niece, Ms. Yellow Bird, and is willing to present that to the Senate.

Ms. Jean McCoard, Native American Alliance of Ohio, related her family's oral tradition, explaining the important but difficult task of maintaining their heritage and identity while keeping it secret. She stated that there are no Federally recognized Indian tribes in Ohio, making the protection of graves and artifacts difficult if not impossible. Amateur archaeologists and hobbyists believe they have greater right to dig, trade and sell grave goods than Indian people have to replace and protect them. The NAAO worked for five years to amend cemetery laws in Ohio to include Native American burials and grave goods. A law was passed in October 1998 under the umbrella of cemetery laws, but the law is limited. The NAAO needs help in protecting Native American grave sites and putting a stop to the sale of grave goods in Ohio, and provisions need to be made in the law so that Native American interests can be protected in states like Ohio with no Federally recognized Indian tribes.

Ms. Laura Miranda, Pechanga Band of Luiseno Indians in Southern California and KCRC, explained some of the points in the position paper presented to the Review Committee by the KCRC. The coalition asks that the burden of proof required to establish cultural affiliation under NAGPRA, currently preponderance of the evidence, should be changed as it is unduly burdensome to Indian tribes; experience has shown that oral tradition is not given as much weight as archaeologists' written word. The coalition urges that regional coalitions of Indian tribes be allowed to make shared group identity claims under NAGPRA as a viable means of returning some of the so-called culturally unidentifiable human remains and sacred objects. Repatriation requests for human remains and burial goods found within a Indian tribe's aboriginal territory should be honored. The coalition disagrees with the composition of the Review Committee, stating that the majority should be Native American, and having representatives of museums and archaeologists on the Review Committee creates a conflict of interest. They urge that the Review Committee be comprised of regional review committees, with members being Indian religious leaders and individuals from Indian nations in each region, or in the alternative, having tribally hosted regional meetings in addition to the regularly scheduled Review Committee meetings.

Mr. Alvin Moyle, Chairman of the Fallon Paiute-Shoshone Tribe, explained that in 1995 his Indian tribe was notified that the BLM had in its possession through the Nevada State Museum the Spirit Cave Man, which was taken from Spirit Cave in 1940. Spirit Cave is located well within the boundaries of the territory of the Paiute-Shoshone Tribe. Based upon written reports, the Nevada State Museum conducted studies before notifying the Indian tribe of the existence of Spirit Cave Man and fights repatriation because more study is needed. The Indian tribe filed claim for

Spirit Cave Man on May 22nd, 1998 and received notification from the BLM four months later that the Indian tribe would have to prove cultural affiliation to Spirit Cave Man and other human remains found at the same time. Mr. Moyle described actions and comments by the Nevada State Museum that exhibit antagonism toward and disregard for NAGPRA, that seek to portray Spirit Cave Man as not culturally affiliated with the Paiute-Shoshone Tribe, and that disparage and undermine the free exercise of tribal religion and rights to repatriation.

Mr. Moyle explained that at an upcoming meeting the Indian tribe will ask the BLM Nevada State director for additional time to submit further supporting material and temporary protection of Spirit Cave Man pending final disposition of their request for repatriation. Mr. Moyle gave examples of specific statements by key professional employees at the museum that were predisposed against the Indian tribe, and stated that the museum proceeded without notification and permission from the BLM and the Indian tribes and against the language of NAGPRA by performing destructive testing and constructing and displaying a bust of the Spirit Cave Man. Mr. Moyle cited examples of vandalism of caves, including missing skeletons, subsequent to the media attention of the Spirit Cave Man and Kennewick Man. He stated that there is no competition among Indian tribes for the Spirit Cave Man, and he provided resolutions from area Indian tribes supporting the repatriation of the Spirit Cave Man with the Fallon Paiute-Shoshone Tribe. Mr. Moyle added that many Indian tribes would be willing to host Review Committee meetings to help offset the Review Committee's lack of funding. Mr. Bradley and Mr. Minthorn expressed their support of the Fallon Paiute-Shoshone Tribe and Mr. Minthorn called for a more proactive role on the part of the Review Committee members to see that the Spirit Cave Man issue does not end up in the court system.

Ms. Ramona Peters, Wampanoag Confederation on behalf of the Wampanoag Tribe of Gay Head, expressed concern about reports of mismanagement of funds in the DOI and stated that before depositing funds collected from civil penalties within the DOI an accounting system for control of the funds would be necessary. She also suggested adding to the budget a way in which the Review Committee could supply funds to Indian tribes and museums to attend meetings and provide testimony when necessary.

Mr. James Riding In, citizen of the Pawnee Nation and associate professor at Arizona State School of Justice, agreed that guidelines need to be adopted for determining cultural affiliation definitions but stressed the importance that they be developed in the proper way. He explained that recent actions of non-Indians have been against the interests of Indians in an effort to favor scientific interests. Compromise will only halt or limit Indian repatriation initiatives of the so-called culturally unidentifiable ancestors. Due to conflict of interest, implementation of NAGPRA should be moved from the NPS to an agency where Native Americans can facilitate repatriation. Indian nations should have the sole authority to make decisions regarding placement of the NAGPRA program, Review Committee decisions and makeup, and determinations of the disposition of Native American human remains.

Ms. Pemina Yellow Bird, Three Affiliated Tribes, the North Dakota Intertribal Reinterment Committee and the Indigenous Peoples Council on Biocolonialism, apologized for comments during the Review Committee members' discussion at the Santa Fe, New Mexico meeting, and explained that her comments were necessary to ensure that Native American people were able to attend Review Committee meetings. She stated that because of their strong spiritual beliefs North Dakota tribes have been involved in repatriation since 1985, have reburied more than 5,000 ancestors, and participated in the passage of NAGPRA because of the need for repatriation and the protection of ancestors. She stated that since 1990, Indian tribes have observed a steady erosion of protections granted by NAGPRA. She expressed concern about the draft principles of agreement and the four subdivisions of culturally unidentifiable human remains. She described the position of the Indian tribes presented at the Senate Oversight Hearing on April 20th, 1999, that they are opposed to the excavation, curation and study of all Indian human remains and graves goods, study of human remains is not necessary to establish tribal identity, and there is no scientific test that can conclusively identify Native American human remains as to tribal origin. They claim all Native human remains and attendant burial properties stolen from collective aboriginal homelands and assert that the bodies and belongings of relatives are not the property of any individual, institution or government. The Review Committee has a trust responsibility to interpret the law in favor of the Indian tribes. The Review Committee should circulate the draft principles of agreement in the Federal Register, posted on the Website, and in a mailing to all Indian tribes for comment. She stated that regional intertribal coalitions remain the only method by which the issue of disposition of

culturally unidentifiable human remains can be resolved. Ms. Yellow Bird requested copies of the draft principles of agreement and the document clarifying questions of legislative intent for the Indian tribes in North Dakota.

Closing Comments

Ms. Naranjo thanked the NAGPRA staff for their hard work. On behalf of the NPS and the DOI, Mr. McManamon thanked the Review Committee members for their time and attention to the implementation of NAGPRA, the religious leaders who offered prayers, the audience members, the presenters, and the members of the NPS staff. Mr. McManamon thanked Ms. Naranjo for her service as Chair and congratulated Mr. Sullivan on his election to Review Committee Chair.

Mr. Lawrence Hart gave the closing invocation. The meeting was adjourned at 1:00 p.m. on Wednesday, May 5th, 1999.

Approved:

/S/ Martin E. Sullivan
Martin E. Sullivan, Chair
Native American Graves Protection
and Repatriation Committee

February 09, 2000
Date